

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

JOHN H. WIMBLEY, )  
                          )  
Plaintiff,            )  
                          )  
v.                     ) Civil Action No. 06-572 GMS  
                          )  
OFFICER NFN BROWN,    )  
SERGEANT NFN READ,    )  
                          )  
Defendants.            )

**FILING FEE ORDER**

1. The plaintiff John H. Wimbley, SBI # 165136, a pro  
se litigant who is presently incarcerated, has filed this action  
pursuant to 42 U.S.C. § 1983 without prepayment of the filing  
fee.

2. Consistent with 28 U.S.C. § 1915(a)(1), the  
plaintiff has submitted an affidavit stating that he has no  
assets with which to prepay the filing fee. Based on the  
plaintiff's affidavit, his request to proceed in forma pauperis  
is granted.

3. Notwithstanding the above, pursuant to 28 U.S.C. §  
1915(b)(1), the plaintiff shall be assessed the filing fee of  
\$350.00. In order to determine the schedule of payment of the  
filing fee, the plaintiff **shall submit to the Clerk of Court**, a  
certified copy of his trust fund account statement (memorandum or  
institutional equivalent, with attachments) showing all deposits,  
expenditures and balances during the six-month period immediately

preceding the filing of the complaint, obtained from the appropriate official at the institution at which the plaintiff is confined. **FAILURE OF THE PLAINTIFF TO RETURN THE REQUESTED INFORMATION WITHIN 30 DAYS FROM THE DATE THIS ORDER IS SENT SHALL RESULT IN DISMISSAL OF THIS ACTION WITHOUT PREJUDICE.**

4. Unless the Court determines from the plaintiff's financial information that he has no assets whatsoever, an initial partial filing fee of 20 percent (20%) of the greater of the plaintiff's average monthly deposit or average monthly balance in the trust fund account shall be required to be paid before the court reviews the complaint. **NOTWITHSTANDING ANY PAYMENT MADE, THE COURT SHALL DISMISS THE CASE IF THE COURT DETERMINES THAT THE ACTION IS FRIVOLOUS OR MALICIOUS, FAILS TO STATE A CLAIM UPON WHICH RELIEF MAY BE GRANTED, OR SEEKS MONETARY RELIEF AGAINST A DEFENDANT WHO IS IMMUNE FROM SUCH RELIEF.**

5. Pursuant to 28 U.S.C. § 1915(g), if the plaintiff has had three or more actions dismissed by the Court on the grounds that they were frivolous, malicious, or failed to state a claim upon which relief may be granted, then the Court shall deny the plaintiff leave to proceed in forma pauperis in all future suits filed without prepayment of the filing fee, unless the Court determines that the plaintiff is under imminent danger of serious physical injury.

DATED: 9/25/06

